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OFFICE OF PETITIONS

In re Patent No. 6,908,694	:	
Moriyama et al.	:	DECISION ON REQUEST FOR
Application No. 09/996,883	:	RECONSIDERATION OF
Filed: November 30, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 684.3290	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed August 19, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from one (1) day to one hundred eighteen (118) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred eighteen (118)** days.

On June 21, 2005, the above-identified application matured into U.S. Patent No. 6,908,694. The instant request for reconsideration filed August 19, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment (PTA) of one (1) day. The initial determination of PTA of forty-six (46)

days was increased by seventy-eight (78) days for Office delay in issuing the patent, but reduced by six (6) days for applicant delay in paying the Issue Fee and by one hundred seventeen (117) days for applicants' submission of a paper styled "Statement of Substance of Interview," filed on February 25, 2005. Patentees dispute the reduction of 117 days.

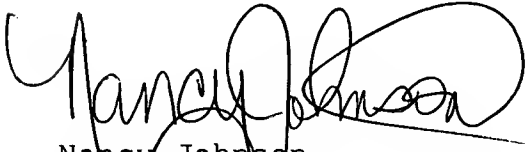
Patentees' arguments are well taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of one hundred seventeen (117) days was based on the filing of a paper styled "Statement of Substance of Interview." This paper is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts within the meaning of § 1.704(c)(10). Nonetheless, under the circumstances of this case, it is concluded that the filing of applicants' "Statement of Substance of Interview" is not a failure to engage within the meaning of § 1.704(c)(10). Thus, it is concluded that the reduction of one hundred seventeen (117) days is not warranted.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred eighteen (118) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED EIGHTEEN (118) days.**

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: DRAFT certificate of correction